

**REMARKS**

Claims 1-24 are currently pending. Claims 1-10 and 24 have been withdrawn.

In this response, claims 11-15, 17, 19 and 20 have been canceled.

Claim 16 has been amended. Support for the amendment can be found in claims 17 and 20, which are now canceled.

Claims 21, 22 and 23 have been amended to correct the dependency change in view of the canceled claims.

No new matter has been added.

Affirmation of Restriction Election

Applicants affirm that Restriction Group II, claims 11-23 were elected in response to the Restriction Requirement issued by the Examiner via telephone on July 7, 2009.

Rejections Under 35 USC § 102(b)

*Sugiura et al.*

The Examiner has rejected claims 11-15 as anticipated by Sugiura et al. The Examiner contends that Sugiura et al. discloses a process for preparation of diglycerides where the preferred fatty acid is arachidonic acid derived from vegetable oils including borage oil.

Applicants have canceled claims 11-15, thereby obviating the rejection.

*Higashiyama et al.*

The Examiner has rejected claims 16-23 as anticipated by Higashiyama et al. The Examiner contends that Higashiyama et al. teach an oil composition comprising a long-chain highly unsaturated fatty acid with an  $\alpha$ -linolenic content of less than 5% and also an oil composition with a linolenic content of 5-15%. The Examiner also states that Higashiyama et al. also teach an oil composition containing arachidonic acid originating from microorganisms and a food having the vegetable fat and oil composition of a long chain highly unsaturated fatty

acid with an  $\alpha$ -linolenic content of less than 5%. Lastly, the Examiner states that Higashiyama et al. teach a method for improving body taste of a food by adding the body taste improver of the vegetable fat and oil composition to the food. Applicants respectfully traverse.

As a preliminary matter, Applicants point out that claims 17, 19 and 20 have been canceled, thereby obviating the rejections based on those claims.

Applicants next note that the oil composition disclosed in Higashiyama et al. needs to contain an abundant amount of arachidonic acid, such as 20% by weight (i.e. 200,000 ppm) or more. This can be seen from the statements in Higashiyama et al. in the abstract and in paragraphs 0007-0011, to name but a few. In other words, the content of arachidonic acid in Higashiyama et al.'s oil composition is at least two fold higher than that in the instant invention. Furthermore, although the abstract of Higashiyama et al. mentions edible oil containing aracidonic acid, and the formula and foods containing said oil, it does not refer to a method of improving body taste of a food by adding a vegetable fat and oil composition according to the present invention. Thus, Higashiyama et al. teach away from the lower oil composition found in the instant invention.

In view of the above, Applicants respectfully request reconsideration and removal of the rejections.

### Conclusion

In view of the above, all of the claims are submitted as defining non-obvious, patentable subject matter. Reconsideration of the rejections and allowance of the claims are respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Susan W. Gorman Reg. No. 46,704 at (858) 792-8855, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Application No. 10/578,254  
Amendment dated October 5, 2009  
Reply to Office Action of July 27, 2009

Docket No.: 4600-0120PUS1

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Dated: October 5, 2009

Respectfully submitted,

By  \_\_\_\_\_

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